

(5) A State agency may request reconsideration of a notice issued pursuant to paragraph (c)(2) or paragraph (c)(3) of this section, and shall be given an opportunity to present views and arguments if desired. Such request shall be made to the Secretary and may include views and arguments on the matters to be decided by the Secretary under paragraph (c)(4) of this section.

(6) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

(Approved by the Office of Management and Budget under control number 1205-0222)

§ 617.53 Subpoenas.

A State agency may issue subpoenas for attendance of witnesses and production of records on the same terms and conditions as under the State law. Compliance may be enforced on the same terms and conditions as under the State law, or, if a State court declines to enforce a subpoena issued under this section, the State agency may petition for an order requiring compliance with such subpoena to the United States District Court within the jurisdiction of which the relevant proceeding under this part 617 is conducted.

§ 617.54 State agency rulemaking.

A State agency may establish supplemental procedures not inconsistent with the Act or this part 617 or procedures prescribed by the Department to further effective administration of this part 617. The exact text of such supplemental procedure or procedures, certified as accurate by a responsible official, employee, or counsel of the State agency, shall be submitted to the Department, on a form supplied by the Department. No supplemental procedure shall be effective unless and until approved by the Department. Approval may be granted on a temporary basis, not to exceed 90 days, in cases of administrative necessity. On reasonable notice to a State agency, approval of a supplemental procedure may be withdrawn at any time. If public notice and opportunity for hearing would be required under a State law for adoption of a similar or analogous procedure in-

volving UI, such public notice and opportunity for hearing shall be afforded by the State agency as to the supplemental procedure.

(Approved by the Office of Management and Budget under control number 1205-0222)

§ 617.55 Overpayments; penalties for fraud.

(a) *Determination and repayment.* (1) If a State agency or a court of competent jurisdiction determines that any person or individual has received any payment under this part 617 to which the person or individual was not entitled, including a payment referred to in paragraph (b) or paragraph (c) of this section, such person or individual shall be liable to repay such amount to the State agency, and the State agency shall recover any such overpayment in accordance with the provisions of this part 617; except that the State agency may waive the recovery of any such overpayment if the State agency determines, in accordance with the guidelines prescribed in paragraph (a)(2) of this section, that:

(i) The payment was made without fault on the part of such person or individual; and

(ii) Requiring such repayment would be contrary to equity and good conscience.

(2)(i)(A) In determining whether fault exists for purposes of paragraph (a)(1)(i) of this section, the following factors shall be considered:

(1) Whether a material statement or representation was made by the person or individual in connection with the application for TAA that resulted in the overpayment, and whether the person or individual knew or should have known that the statement or representation was inaccurate.

(2) Whether the person or individual failed or caused another to fail to disclose a material fact, in connection with an application for TAA that resulted in the overpayment, and whether the person or individual knew or should have known that the fact was material.

(3) Whether the person or individual knew or could have been expected to know, that the person or individual was not entitled to the TAA payment.